

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2213.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	February 4, 2005
DATE OF REPORT:	March 3, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 9, 2005

COMPLAINT ISSUES:

Whether the School City of East Chicago violated:

511 IAC 7-27-7(a) for failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide speech/language services required by the IEP;

511 IAC 7-27-4(a)(3) for failing to convene the student's case conference committee upon the request of a teacher, parent, or administrator; and

511 IAC 7-27-7(a) for failing to implement the student's IEP as written, specifically by failing to provide transportation services as required.

FINDINGS OF FACT:

1. The Student is 12 years old, has been identified as having a mild mental disability and a communication disorder, and has been determined eligible for special education and related services.
2. The Student's IEP calls for the Student to receive 40 minutes per week of direct speech therapy in a small group setting.
3. The School presented a written record of the Student's attendance at speech therapy sessions (Record of Speech Attendance #1) from September 21, 2004, through February 8, 2005. The record, prepared by the Speech Therapist, indicates that the School had scheduled speech therapy on Tuesdays and Thursdays for the Student, and that the Student did not show up for speech therapy 11 times through February 4, 2005, the date the complaint was filed. The record simply says "no show" for those dates. Concerning these 11 times, the Speech Therapist wrote on Record of Speech Attendance #1 that she does not assist the older students in getting to therapy "because they should be responsible enough to come on their own."
4. While the IEP does not discuss assistance that should be given to the Student in getting to speech therapy, it states that the Student "needs adult/peer assistance/direction to follow classroom procedures" and "needs information repeated several times." The IEP also discusses the Student's difficulty in focusing due to a hearing loss.
5. A second record of attendance prepared by the Speech Therapist (Record of Speech Attendance #2, with information provided for September 21, 2004, through February 22, 2005) shows that the Student

was present on two dates that were missing on Record of Speech Attendance #1. Record #2 shows that the Student was not provided speech therapy 11 times out of 24 therapy times when the Student was in school.

6. At the beginning of 2005, due to fewer personnel to administer and assist with speech therapy, therapy services were provided by the Student's Speech Therapist on Tuesdays only. No therapy was provided on the following Thursdays: January 13, January 20, January 27, and February 3, 2005. The School acknowledged that speech therapy services were not provided in 2005 on these dates. The School sent a letter to parents in January 2005 indicating that it planned to provide compensatory speech services, but did not indicate the amount of compensatory services to be provided. The Speech Therapist was to contact parents to inform them when students would begin compensatory services, and where these services would be provided.
7. The Complainant requested a CCC meeting in writing on December 2, 2004, and specified people who needed to be present: the Student, the Teacher of Service (TOS), the Teacher of Record (TOR), the Principal, the Director of Special Education or Special Education Consultant, and the Speech Therapist.
8. A CCC meeting was set for December 15, 2004. The Complainant said that she showed up for the meeting but nobody else was there. The Complainant rescheduled the meeting for January 5, 2005. The meeting on January 5 was cancelled on the day of the meeting due to the TOS not being able to attend, and later rescheduled for January 24. The Complainant was notified by telephone on January 21 that the Speech Therapist would not be able to attend the January 24 meeting, and the meeting was cancelled on January 24 when the TOS also could not attend.
9. After the School received notice of the complaint, the CCC meeting was rescheduled for February 28, 2005. The Complainant received notices about the upcoming meeting, and the CCC meeting was held as scheduled.
10. The Student's IEP calls for transportation services for the Student. The IEP does not call for a shortened school day.
11. The School acknowledged "a severe shortage of qualified drivers" during the 2004-2005 school year, "which resulted in double trips for a driver." The Student is scheduled to be picked up by the school bus between 7:15 a.m. and 7:30 a.m. The bus has been late on several occasions to pick up the Student. The Complainant reported that the bus arrived at 8:50 a.m. on February 2, 2005, and that this was not the first time for such a late pick-up. While there is no documentation of this pick-up time, the School acknowledges that the Student has at times missed 15 to 30 minutes of instruction due to the lateness of the school bus. (School is scheduled to begin at 8:25 a.m.) The Complainant has not reported a problem with transportation from the School to the Student's home in the afternoon.
12. The School reported that it is "prepared to offer compensatory education services when transportation was the issue (reason) for missing instruction and speech." However, no plan for compensatory education services has been devised, and the issue was not discussed at the CCC meeting on February 28, 2005.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #5 indicate that speech therapy was not provided 11 times when the Student failed to show up for services. Finding of Fact #4 indicates that the Student requires assistance and direction from adults and peers, repetition of instructions, and help with focusing.

Finding of Fact #6 indicates that the Student was not provided speech therapy four more times at the beginning of 2005. In all, the Student was not provided speech therapy 15 times. Therefore, a violation of 511 IAC 7-27-7(a) is found.

2. Findings of Fact #7, #8, and #9 indicate that the CCC meeting was rescheduled three times before being held on February 28, 2005, over two months after a date was first set. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.
3. Findings of Fact #10 and #11 indicate that the school bus has shown a pattern of lateness in picking up the Student in the morning, well past the allowable limit for a pick-up. Finding of Fact #12 indicates that compensatory services have not been implemented. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The School City of East Chicago shall:

1. Convene the CCC to (1) devise a plan for providing compensatory services to assist in achieving the goals and objectives listed in the IEP and to make up 15 speech therapy sessions of 20 minutes each, missed from September 21, 2004, through February 4, 2005; and (2) determine whether, as a result of missed instruction due to lateness of the school bus, the Student needs additional compensatory services to further assist in meeting the goals of the IEP.

Documentation of compliance (consisting of the CCC Report, including a plan of compensatory services) shall be submitted to the Division by April 8, 2005. (If the Complainant intends to decline compensatory services for speech therapy and instead use the services of an outside agency, as the Complainant stated at the CCC meeting on February 28, 2005, the School must still convene the CCC and document the denial of services in the CCC Report, signed by both parties. The CCC Report shall also include a discussion of whether compensatory services will be provided for missed instruction due to lateness of the school bus.)

2. Submit an assurance statement that CCC meetings will be convened without unreasonable delay upon the request of a parent.

Documentation of compliance (consisting of the assurance statement) shall be submitted to the Division by April 8, 2005.

3. Devise a plan with the School's transportation department to end the lateness of the school bus in the morning, and to ensure that a shortage of qualified bus drivers does not hamper transportation services for students with disabilities.

Documentation of compliance (consisting of the transportation plan) shall be submitted to the Division by April 8, 2005.